

MARY ANN SMITH  
Deputy Commissioner  
SEAN ROONEY  
Assistant Chief Counsel  
ADAM J. WRIGHT (CA BAR NO. 262378)  
Corporations Counsel  
320 West 4th Street, Suite 750  
Los Angeles, California 90013-2344  
Telephone: (213) 576-7523; Facsimile (213) 576-7181  
Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
OF THE STATE OF CALIFORNIA

In the Matter of	)	<b>DESIST AND REFRAIN ORDER;</b>
	)	
THE CALIFORNIA COMMISSIONER OF	)	<b>CLAIM FOR ANCILLARY RELIEF; and</b>
BUSINESS OVERSIGHT,	)	
	)	<b>ORDER LEVYING ADMINISTRATIVE</b>
Complainant,	)	<b>PENALTIES</b>
v.	)	(Corp. Code §§ 25532, 25254, 25252)
	)	
EKHOLM WEALTH MANAGEMENT, a	)	
business organization form unknown, and	)	
BROOKS EKHOLM LEWIS,	)	
	)	
Respondents.	)	
	)	
	)	
	)	
	)	

Jan Lynn Owen, the California Commissioner (“Commissioner”) of the Department of Business Oversight (“Department”), is informed and believes, and based on such information and belief, finds the following:

**I. FACTUAL BACKGROUND**

1. Ekholm Wealth Management (“EWM”) is a business organization of unknown form. EWM has a mailing address at 106 B Avenue, Coronado, California 92118. EWM has a phone number of (888) 535-4656 and a fax number of (888) 535-4656. EWM conducts business at 530

1 Pomona Avenue, Coronado, California 92118. EWM maintains a website at  
2 www.ekholmwealth.com.

3 2. At all relevant times, Brooks Ekholm Lewis (CRD# 2427330) ("Lewis") was the sole  
4 owner and operator of EWM. Lewis conducts business at 530 Pomona Avenue, Coronado, California  
5 92118. Lewis maintains a public profile on LinkedIn.com at which Lewis lists his current occupation  
6 as "Investment Advisor at Ekholm Wealth Management." Lewis conducted business through the  
7 email address brooks.lewis@ekholmwealth.com.

8 3. Lewis was a registered representative of various, licensed investment adviser firms  
9 from 1990 through part of 2012. Lewis left his final investment adviser firm in 2012. At that time,  
10 Lewis opened his own investment adviser firm, EWM. Lewis continued to serve many of his long-  
11 time clients at EWM. At least three of those clients resided in California. At EWM, Lewis continued  
12 providing investment adviser services to his clients, as he had when he was a registered  
13 representative of licensed investment adviser firms.

14 4. After Lewis left his final licensed investment adviser firm in 2012, neither Lewis nor  
15 EWM applied for a certificate or license from the Commissioner to conduct business as an  
16 investment adviser in California.

17 5. After starting EWM and through the present, Lewis and EWM have collected \$23,260  
18 in investment advisory fees from California residents.

19 6. At all relevant times herein, Lewis and EWM conducted business in California.

20 7. At all relevant times herein, neither the Department nor the United States Securities  
21 and Exchange Commission have issued an investment adviser certificate to either Lewis or EWM.

## 22 **II. DESIST AND REFRAIN ORDER**

23 The Commissioner is authorized to administer and enforce the provisions of the Corporate  
24 Securities Law of 1968, Corporations Code sections 25000 et seq. ("CSL") and the regulations  
25 thereunder at Title 10, California Code of Regulations ("CCR").

26 ///

27 ///

28 ///

California Corporations Code section 25009, subdivision (a) provides in pertinent part:

‘Investment adviser’ means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing or selling securities . . . .

California Corporations Code section 25230, subdivision (a) provides:

It is unlawful for any investment adviser to conduct business as an investment adviser in this state unless the investment adviser has first applied for and secured from the commissioner a certificate, then in effect, authorizing the investment adviser to do so or unless the investment adviser is exempted by the provisions of Chapter 1 (commencing with Section 25200) of this part or unless the investment adviser is subject to Section 25230.1.

California Corporations Code section 25202, subdivision (a) provides:

An investment adviser shall not be subject to Section 25230 if (1) the investment adviser does not have a place of business in this state and (2) during the preceding 12-month period has had fewer than six clients who are residents of this state.

California Corporations Code section 25230.1 states in pertinent part:

(a) A person that is registered under Section 203 of the Investment Advisers Act of 1940 as an investment adviser is not subject to the requirement of obtaining a certificate under Section 25230, but may not conduct business in this state unless the person has fewer than six clients as specified in Section 25202 or unless the person first complies with subdivision (b). An investment adviser representative that has a place of business in this state may be required to obtain a certificate pursuant to Section 25231.

(b) A person subject to subdivision (a) shall:

(1) File with the commissioner an annual notice, consisting of those documents filed with the Securities and Exchange Commission pursuant to the securities laws that the commissioner by rule or order deems appropriate or, in lieu thereof, a form prescribed by the commissioner, and a consent to service of process under Section 25240 . . . .

California Corporations Code section 25532, subdivision (b) states:

If, in the opinion of the commissioner, a person has been or is acting as a broker-dealer or investment adviser, or has been or is engaging in broker-dealer or investment adviser activities, in violation of Section 25210,

25230, or 25230.1, the commissioner may order that person to desist and refrain from the activity until the person has been appropriately licensed or the required filing has been made under this law.

The foregoing facts establish that Lewis and EWM have conducted business as an investment adviser in this state without first securing from the Commissioner a certificate, then in effect, authorizing them do so or unless they are exempt, in violation of Corporations Code section 25230. Moreover, neither Lewis nor EWM are exempt from Corporations Code section 25230.

Pursuant to California Corporations Code section 25532, Brooks Ekholm Lewis and Ekholm Wealth Management are hereby ordered to desist and refrain from acting as an investment adviser in the State of California unless and until they have first applied for and secured from the Commissioner a certificate authorizing them to act as an investment adviser, or unless exempt. This Order is necessary, in the public interest, for the protection of investors, and consistent with the purposes, policies, and provisions of the CSL.

### **III. CLAIM FOR ANCILLARY RELIEF IN THE FORM OF DISGORGEMENT**

California Corporations Code section 25254, subdivision (a) provides:

If the commissioner determines it is in the public interest, the commissioner may include in any administrative action brought under this part a claim for ancillary relief, including, but not limited to, a claim for restitution or disgorgement or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action, and the administrative law judge shall have jurisdiction to award additional relief.

The Commissioner hereby makes a claim for disgorgement by Brooks Ekholm Lewis and Ekholm Wealth Management of all fees collected from clients residing in California while engaged in unregistered investment advisory activities, in an amount of \$23,260, or according to proof.

### **IV. ORDER LEVYING ADMINISTRATIVE PENALTIES**

California Corporations Code section 25252 provides in pertinent part:

The commissioner may, after appropriate notice and opportunity for hearing, by orders, levy administrative penalties as follows: . . .  
(b) Any broker-dealer or investment adviser that willfully violates any provision of this division to which it is subject, or that willfully violates any rule or order adopted or issued pursuant to this division and to which it is subject, is liable for administrative penalties of not more than five

thousand dollars (\$5,000) for the first violation, not more than ten  
thousand dollars (\$10,000) for the second violation, and not more than  
fifteen thousand dollars (\$15,000) for each subsequent violation . . . .

Pursuant to California Corporations Code section 25252, the Commissioner hereby levies  
administrative penalties against Brooks Ekholm Lewis and Ekholm Wealth Management in the  
aggregate amount of \$5,000 for the willful violation of California Corporations Code section 25230.  
This amount shall be paid to the Commissioner within sixty (60) days of the date of this Order.

This Order is necessary, in the public interest, for the protection of investors, and consistent  
with the purposes, policies, and provisions of the CSL.

Dated: July 31, 2014  
Sacramento, California

JANN LYNN OWEN  
Commissioner of Business Oversight

By \_\_\_\_\_  
MARY ANN SMITH  
Deputy Commissioner  
Enforcement Division